



**CITY OF SUNNYVALE
REPORT
Planning Commission**

December 15, 2003

SUBJECT: **2003-0827** – Application for a Tree Removal Permit for removal of a Podocarpus tree. The property is located at **1007 Payette Avenue** in an R-1 (Low-Density Residential) Zoning District. (APN: 326-04-011)

Motion Appeal of a decision by the Director of Community Development denying a Tree Removal Permit for one Podocarpus in the side yard.

REPORT IN BRIEF

Existing Site Conditions Single-Family Residential

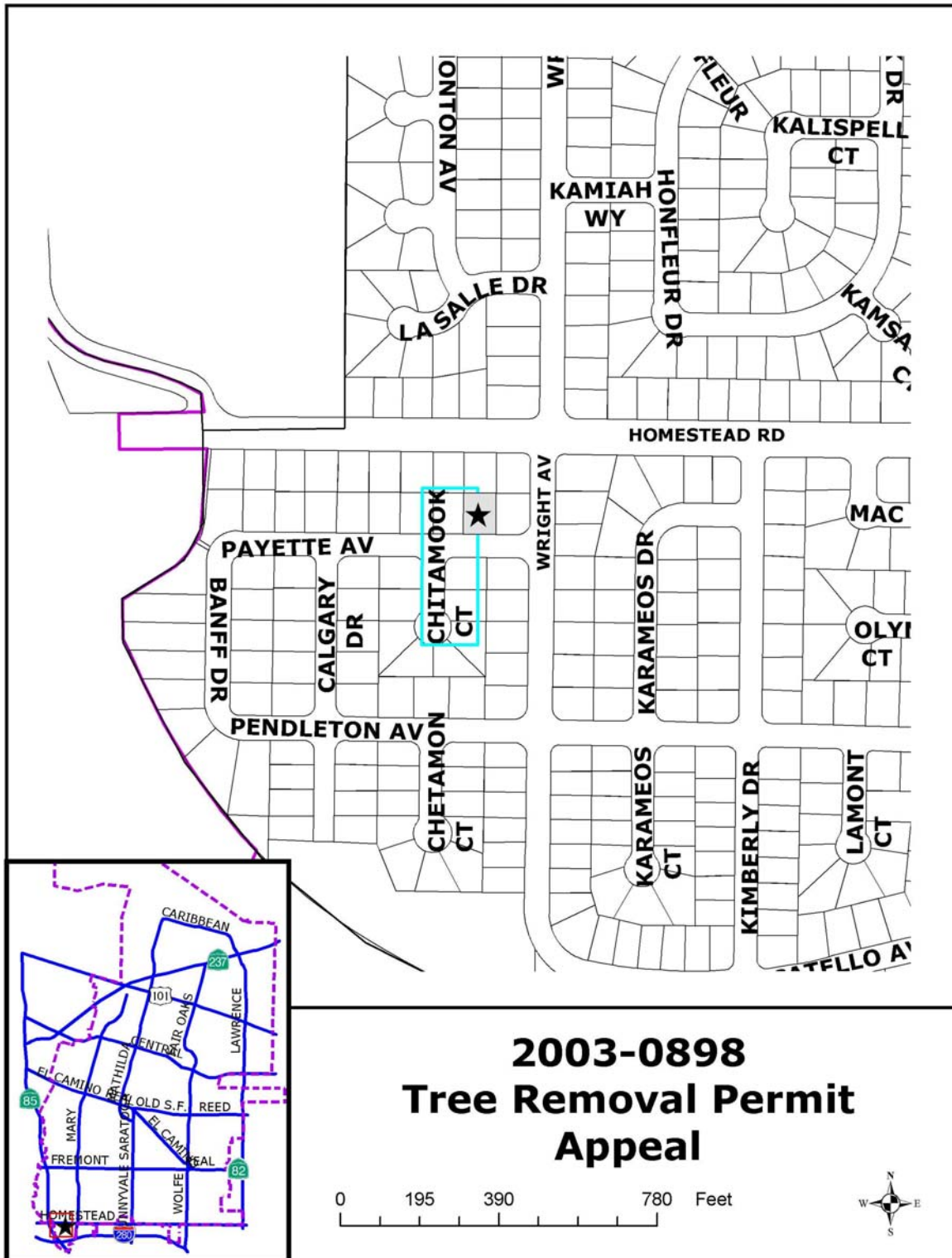
Surrounding Land Uses

| | |
|-------|---------------------------|
| North | Single-Family Residential |
| South | Single-Family Residential |
| East | Single-Family Residential |
| West | Single-Family Residential |

Issues Tree Removal Appeal

Planning Commission Action A Class 4 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

Staff Recommendation Deny the appeal and uphold the Tree Removal Permit denial.



PROJECT DATA TABLE

| | <u>EXISTING</u> | <u>PROPOSED</u> | <u>REQUIRED/ PERMITTED</u> |
|------------------------|-------------------------|------------------------|---------------------------------------|
| General Plan | Residential Low Density | Same | --- |
| Zoning District | R-0 | Same | --- |
| Lot Size (s.f.) | 8,003 | Same | 6,000 min. |
| No. of Units | 1 | Same | 1 max. |

ANALYSIS**Background**

Previous Actions on the Site: The following table summarizes previous planning applications related to the subject site.

| File Number | Brief Description | Hearing/Decision | Date |
|--------------------|-----------------------------------------------------|-------------------------|-------------|
| 2001-0490 | Tree Removal Permit to remove same Podocarpus tree. | Staff Review / Denied | 8/22/01 |

In July, 2001, the applicant applied for a Tree Removal Permit to remove the subject Podocarpus tree; the application was denied. The applicant had requested the removal as the roots had lifted and cracked the applicant's walkway next to their garage. The applicant was concerned that continued growth may impact their garage. The City Arborist recommended cutting roots up to 2-inches in diameter on the house side and installing a barrier to deflect the roots from growing back. The applicant had a root barrier installed and has subsequently not experienced problems with root growth on the subject property.

Description of Proposed Project

On October 28, 2003, the property owner requested a Tree Removal Permit for the removal of one tree at the site. The tree is a Podocarpus and is located in the side yard, adjacent to 1001 Payette Avenue. (Please refer to Attachments #4 for photographs of the tree.)

On November 3, 2003, the City Arborist inspected the tree at the site and recommended denial of the application for removal of the tree. Planning Staff visited the site on November 5, 2003. The Director of Community Development

concurred with the Arborist's recommendation and notified the applicant of the decision on January 23, 2003. The applicant is appealing the denial of the Tree Removal Permit.

Environmental Review

A Class 4 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 1 Categorical Exemptions include minor alterations of land.

Tree Preservation Ordinance

On December 12, 1991, the Tree Preservation Ordinance was established in order to preserve mature trees of significant size. Chapter 19.94 of the Sunnyvale Municipal Code defines a protected tree as a tree with circumference equal to or greater than 38 inches when measured four feet above the ground. A Tree Removal Permit must be obtained prior to the removal of a protected tree from private property in any zoning district.

Applicant's Appeal

The primary reason stated by the applicant for removal of the Podocarpus was damage to the neighbor's property (1001 Payette Ave.) The damage listed included impact to the neighbor's house foundation, shed cement base and sidewalk. (Please refer to the letter in Attachment 6 from the applicant and the letter in Attachment 7 from the applicant's neighbor for additional details.)

The applicant's neighbor, located at 1001 Payette Ave, supports the appeal. The primary reasons stated are damage to the neighbor's shed and sidewalk area, and concern for a safety hazard caused by the uneven sidewalk.

Staff Discussion

The decision to deny the Tree Removal Permit was based upon the required findings for tree removal, which are provided in Attachment 1.

The City Arborist noted that the tree appears to have 20 to 30 years of remaining life expectancy. Planning Staff noted that the tree makes a positive esthetic contribution to the neighborhood, which has a limited number of trees providing visual impact.

Staff determined that the Podocarpus is not diseased or badly damaged. It does not represent a hazard to people or other trees, though has some impact on the neighboring shed and sidewalk. Lastly, the tree is in sound condition

and is not impacting on the economic potential of the applicant's or neighbor's property.

While staff concurs that roots from the tree appear to have raised the concrete floor in the shed and cracked the concrete, the impact that has occurred to the neighbor's shed will not be mitigated by removing the tree. The City Arborist has indicated that the roots may be pruned at the property line and a root barrier installed to prevent future impact to the neighboring property.

The subject tree contributes to the appearance of the neighborhood and to the diversity of the tree species in the City of Sunnyvale.

Expected Impact on the Surroundings

The Podocarpus is a highly visible feature at the intersection of Payette Avenue and Wright Avenue. Removal of this tree would have a negative impact on the overall streetscape.

If the Planning Commission can make a finding to approve the Tree Removal Permit, Staff recommends a Condition of Approval that the trees must be replaced with minimum 15-gallon trees within 90 days of the tree removal date (see Attachment 2).

Findings, General Plan Goals and Conditions of Approval

Staff is recommending denial for this project because the Findings (Attachment 1) were not made. However, if the Planning Commission is able to make the required findings, staff is recommending the Conditions of Approval (Attachment 2).

- Findings and General Plan Goals are located in Attachment 1.
- Conditions of Approval are located in Attachment 2.

Fiscal Impact

No fiscal impacts are expected.

Public Contact

| Notice of Public Hearing | Staff Report | Agenda |
|--------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none">• Mailed to the adjacent property owners of the project site | <ul style="list-style-type: none">• Posted on the City of Sunnyvale's Website• Provided at the Reference Section of the City of Sunnyvale's Public Library | <ul style="list-style-type: none">• Posted on the City's official notice bulletin board• City of Sunnyvale's Website |

Alternatives

1. Deny the appeal and uphold the denial of a Tree Removal Permit.
2. Grant the appeal and approve the Tree Removal Permit subject to the Conditions of Approval.
3. Grant the appeal and approve the Tree Removal Permit subject to modified Conditions of Approval.

Recommendation

Alternative 1.

Prepared by:

Jamie McLeod
Project Planner

Reviewed by:

Fred Bell
Principal Planner

Reviewed by:

Trudi Ryan
Planning Officer

Attachments:

1. Findings
2. Conditions of Approval
3. TRP Application
4. Photos of Tree
5. Letter Denying Tree Removal Permit
6. Letter of Appeal from the Applicant
7. Letter Supporting Appeal from Applicant's Neighbor

Findings – Tree Removal Permit

In order to grant a Tree Removal Permit, one or more of the following findings must be met. Staff is unable to make these required findings.

1. The tree is diseased or badly damaged.

The subject tree is not diseased or damaged, and it is in good health.

2. The tree represents a potential hazard to people, structures or other trees.

The City Arborist inspected the site and the subject tree, and observed that the tree does not present any potential hazard to people or other trees. The City Arborist has recommended root barriers and root trimming to minimize any further impact of the tree on adjacent structures. The existing impact on the neighbor's shed will not be mitigated by removing the tree.

3. The tree is in basically sound condition, but restricts the owner's ability to enjoy the reasonable use or economic potential of the property, or unreasonably restricts an adjoining property owner's use or economic potential of the adjoining property. In the event this is the sole basis for the application, the following criteria shall be used to evaluate the application under this subsection:

- a. The necessity of the requested removal to allow construction of improvements such as additions to existing buildings or incidental site amenities or to otherwise allow economic or reasonable enjoyment of property;
- b. The topography of the land and the effect of the requested action on water retention and diversion or increased flow of surface water;
- c. The approximate age of the tree relative to its average life span;
- d. The potential effect of removal on soil erosion and stability where the tree is located;
- e. Current and future visual screening potential;
- f. Any other information the Director of Community Development finds pertinent to the application.

Staff believes that this tree is not restricting the reasonable use or economic potential of the property. The removal of the subject tree would not have a significant impact on water retention, diversion, increased flow of surface water, soil erosion or stability. The tree has a remaining life expectancy of 20 to 30 years. Staff believes that this tree provides a positive aesthetic contribution to the neighborhood.

Conditions of Approval – Tree Removal Permit

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances and Resolutions, the Permittee expressly accepts and agrees to comply with the following Conditions of Approval.

1. One replacement tree, a minimum of 15 gallons in size, shall be planted on the property or an in-lieu fee of \$210.00 shall be paid to the City to allow a tree to be planted in a City park or other public property for each tree approved for removal.
2. The replacement trees shall be planted within 90 days of the tree removal date. If the in-lieu fee is chosen, the fee shall be paid prior to issuance of the Tree Removal Permit.